

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT KIDD,

Plaintiff,

v.

JAQUELINE SCHELLINGER,

Defendant.

ORDER

Case No. 20-cv-1138-jdp

Plaintiff Robert Kidd, a prisoner in the custody of the Department of Corrections, has filed a proposed civil complaint. Plaintiff is a prisoner and, therefore, subject to the 1996 Prisoner Litigation Reform Act. Plaintiff has requested leave to proceed without prepayment of the filing fee and submitted an incomplete monthly inmate transaction statements to support this request. These statements are insufficient to determine whether plaintiff qualifies for indigent status because plaintiff has not submitted a complete copy of plaintiff's inmate trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint.

For this case to proceed, plaintiff must submit the certified trust fund account statement no later than February 5, 2021. If I find that plaintiff is indigent, I will calculate an initial partial payment amount that must be paid before the court can screen the merits of the complaint under 28 U.S.C. § 1915(e)(2). Thereafter, plaintiff will be required to pay the balance of the filing fee in installments.

With the complaint, plaintiff also filed a motion to use release account funds to pay the entire fee for filing this case. (Dkt. #3). However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a

prisoner should be able to withdraw money from a release account. Plaintiff cannot use the release account funds to pay the entire balance of the filing fee, and so plaintiff's motion will be denied.

ORDER

IT IS ORDERED that,

1. Plaintiff Robert Kidd may have until February 5, 2021 to submit a certified trust fund account statement for the period beginning approximately July 15, 2020 and ending approximately January 15, 2021. If, by February 5, 2021, plaintiff fails to respond to this order, I will assume that plaintiff wishes to withdraw this action voluntarily. In that event, the case will be closed without prejudice to plaintiff filing the case at a later date.
2. Plaintiff Robert Kidd's motion for use of release account funds to pay the entire filing fee in this case (Dkt. #3) is DENIED.

Entered this 15th day of January, 2021.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge